

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 15-CR-4268-JB

ANGEL DELEON,  
JOE GALLEGOS,  
EDWARD TROUP,  
LEONARD LUJAN,  
BILLY GARCIA,  
EUGENE MARTINEZ,  
ALLEN PATTERSON,  
CHRISTOPHER CHAVEZ,  
JAVIER ALONSO,  
ARTURO ARNULFO GARCIA,  
BENJAMIN CLARK,  
RUBEN HERNANDEZ,  
JERRY ARMENTA,  
JERRY MONTOYA,  
MARIO RODRIGUEZ,  
TIMOTHY MARTINEZ,  
MAURICIO VARELA,  
DANIEL SANCHEZ,  
GERALD ARCHULETA,  
CONRAD VILLEGAS,  
ANTHONY RAY BACA,  
ROBERT MARTINEZ,  
ROY MARTINEZ,  
CHRISTOPHER GARCIA,  
CARLOS HERRERA,  
RUDY PEREZ,  
ANDREW GALLEGOS,  
SANTOS GONZALEZ,  
PAUL RIVERA, and  
SHAUNA GUTIERREZ,

Defendants.

**DEFENDANTS' JOINT MOTION FOR EXPEDITED BRIEFING AS TO JOINT  
MOTION FOR RECONSIDERATION OF THE PROTECTIVE ORDER AND  
REQUEST FOR HEARING ON JUNE 2, 2016**

Defendants Joe Gallegos, Edward Troup, Billy Garcia, Christopher Chavez, Javier Alonso, Arturo Arnulfo Garcia, Jerry Montoya, Timothy Martinez, Daniel Sanchez, Gerald Archuleta, Conrad Villegas, Anthony Ray Baca, Christopher Garcia, Rudy Perez, Carlos Herrera, and Santos Gonzales (hereinafter collectively “Defendants”), by and through their respective counsel, pursuant to Fed.R.Crim.Pr. 47(c) and D.N.M. LR-Cr. 47.8(C), hereby request this Court order expedited briefing as to their Joint Motion for Reconsideration of the Protective Order and set said Motion for hearing at the June 2, 2016, status conference to be held in this matter. In support thereof, Defendants state as follows:

1. On February 5, 2016, the government filed a sealed motion for protective order. (Doc. 260).
2. On February 17, 2016, the defendants filed a Joint Opposition to the government’s motion for a protective order outlining the defense objections. (Doc. 281).
3. On March 3, 2016, the Honorable Kenneth Gonzales held a hearing at which the parties presented argument as to the government’s Motion for a Protective Order.
4. On March 14, 2016, Judge Gonzales entered a Protective Order limiting defendants’ access to discovery in this matter. (Doc. 313). The Protective Order indicates defendants will receive certain discovery in electronic form on tablets to be disseminated to defendants. Other discovery deemed “Confidential” will not be provided to defendants and is only available to defendants for viewing in the presence of defense counsel.

5. On March 25, 2016, in response to inquiries as to a potential conflict of interest, Judge Gonzales provided counsel with a letter recalling participation in a meeting in which “prison gangs in New Mexico, including SNM” were the topic of discussion. (Doc. 338). (The foundational underpinnings of this matter are allegations of a prison gang (SNM) and its activities within the New Mexico penal system). Similarly, on April 1, 2012, the government filed a Notice indicating potential involvement of Judge Gonzales as an Assistant United States Attorney in a 2009 investigation related to either the allegations or defendants in this matter. (Doc. 358).

6. This case was reassigned to the Honorable James O. Browning on March 30, 2016. (Doc. 351).

7. On April 21, 2016, the grand jury returned a superseding indictment adding additional defendants that were not parties at the time the Protective Order was entered by Judge Gonzales.

8. Following initial production of discovery following entry of the Protective Order, pursuant to said Order’s terms, defense counsel attempted to confer with the Government concerning the defendants’ belief that certain discovery was erroneously classified as “Confidential Material” and thereby excluded from dissemination to defendants even in electronic form. The Government was thus made aware there are defense objections to the implementation of the Protective Order.

9. On May 19, 2016, the Court scheduled a “Status Conference and Motion Hearing” to commence at 9:00 a.m. on June 2, 2016. (Doc. 536). Counsel for many defendants will be traveling from out-of-town and/or out-of-state to attend said hearing. Moreover, upon information and belief, those defendants without approved waivers of

appearance will be transported by the United States Marshal Service to personally appear. As the Court is aware, scheduling of hearings involving the sheer number of defendants and attorneys in this case is a difficult task.

10. On May 22, 2016, defense counsel contacted the Government via electronic mail and specifically informed the assigned prosecutors several defendants intended to submit a Motion for Reconsideration the Protective Order. Said email communication included a summary of the Motion for Reconsideration. Moreover, on May 23, 2016, prior to filing the Motion for Reconsideration, defense counsel provided the Government with a copy of the same. Accordingly, the Government had actual notice of the precise arguments raised as to reconsideration of the Protective Order.

11. On May 23, 2016, Defendants filed their Joint Motion for Reconsideration of the Protective Order. (Doc. 541). In said Motion, Defendants request this Court reconsider the Protective Order entered by Judge Gonzales and permit all discovery to be placed in electronic form on the tablet computers to be disseminated to defendants.

12. Upon information and belief, the defense discovery coordinator will receive the tablet computers and begin the process of placing approved discovery thereon for dissemination to defendants during the week of May 23, 2016. Once the tablets are loaded with appropriate discovery, they will be delivered to defendants. Any subsequent addition of further discovery thereto will require the coordinator to re-acquire the tablets from defendants, load new discovery thereon, and then again ship the tablets to defendants.

13. Defendants request this Court order expedited briefing as to their Joint Motion for Reconsideration of the Protective Order (Doc. 541) so that it may be heard at

the previously scheduled June 2, 2016, conference and motions hearing. If the Court grants the Motion for Reconsideration and modifies the Protective Order such that the tablet computers will contain all discovery, the coordinator will be able to load all discovery before the initial dissemination to defendants. This may save considerable time and associated CJA resources.

14. According to Fed.R.Crim.P. 47(c), a party must provide any written motion at least 7 days before the hearing date, unless a rule or order sets a different period. As stated above, the Government was provided notice of the Motion for Reconsideration on May 22, 2016, and a copy of the proposed Motion on May 23, 2016. Moreover, the final motion was filed May 23, 2016, ten (10) calendar days and eight (8) business days prior to the June 2, 2016, hearing.

15. Defendants recognize D.N.M. LR-Cr. 47.8 provides for a typical briefing schedule allowing fourteen (14) days for the filing of any response. However, D.N.M. LR-Cr. 47.8(C) provides for expedited briefing if ordered by the Court. Defendants submit that expedited briefing is appropriate as to the Motion for Reconsideration for the reasons set forth herein. Specifically, the issues addressed within the Motion for Reconsideration are not entirely new to the parties and are not complex. Moreover, Defendants attempted in good faith to provide fair notice to the Government as to the specific request for reconsideration and reasons therefor. Furthermore, combining a hearing on the Motion for Reconsideration with other matters to be addressed at the June 2, 2016, conference will preserve judicial, governmental and CJA resources.

16. Accordingly, Defendants request this Court order expedited briefing as to the Motion for Reconsideration filed May 23, 2016 (Doc. 541) and to hear argument as to the same at the previously scheduled June 2, 2016, conference and motions hearing.

17. Counsel for the Government has been contacted concerning this motion and the relief requested herein and has indicated its opposition to the same.

18. Leonard Lujan, through counsel, opposes the relief requested herein. Ruben Hernandez, through counsel, indicates he does not join the Motion. Defendants Eugene Martinez, Roy Paul Martinez, Benjamin Clark, and Paul Rivera, through their respective counsel, take no position. Undersigned counsel sought the position of Defendants Allen Patterson, Mauricio Varela, Robert Martinez and Andrew Gallegos, but has not received a response as of the filing of this Motion.

WHEREFORE, the Defendants Joe Gallegos, Edward Troup, Billy Garcia, Allen Patterson, Christopher Chavez, Javier Alonso, Arturo Arnulfo Garcia, Jerry Montoya, Timothy Martinez, Mauricio Varela, Daniel Sanchez, Gerald Archuleta, Conrad Villegas, Anthony Ray Baca, Christopher Garcia Rudy Perez, Carlos Herrera, and Santos Gonzales, by and through undersigned counsel, respectfully request this Court order expedited briefing as to their Motion for Reconsideration of the Protective Order (Doc. 541) and schedule said Motion for hearing on June 2, 2016.

Respectfully submitted,

/s/ Brock Benjamin

Brock Benjamin

Richard Sindel

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/s/ Patrick Burke

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Cori Harbour-Valdez  
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/s/ James Castle

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Robert Cooper  
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/s/ Orlando Mondragon

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Attorney for Christopher Chavez (8)

/s/ Nathan Chambers

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Attorney for Rudy Perez (27)

/s/ Erlinda O. Johnson

Erlinda O. Johnson

Attorney for Santos Gonzales (28)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing pleading was emailed by CM/ECF to counsel of record this 23<sup>rd</sup> day of May, 2016.

/s/ Billy R. Blackburn

Billy R. Blackburn